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FAX COVER SHEET

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To: Honorable Robert W. Sweet  
Judge  
United States District Court  
From: Peter G. Eikenberry, Esq.  
Client/Matter: *Castro et al : Spice Place, Inc. et al*  
*07 cv 4657*

Date: July 23, 2008

DOCUMENTS	NUMBER OF PAGES*
Letter	2

COMMENTS:

cc: Juno Turner, Esq. 212-416-8694  
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July 23, 2008

*Via Fax*  
The Honorable Robert W. Sweet  
Judge  
United States District Court  
Southern District of New York  
United States Courthouse  
500 Pearl Street, Room 1920  
New York, NY 10007

***Castro et al : Spice Place, Inc. et al***  
***07 cv 4657 (RWS)***

Dear Judge Sweet:

Further to my letter of July 7, there have been recent developments. On July 16, Mr. Faillace, my associate Rob Ruhlin and I met at the N.Y.S. Attorney General's office at 120 Broadway with three attorneys from the office, Joshua Pepper, Seth Kupferberg and Juno Turner. They informed us that they would permit discovery of documents the office had secured in its investigation from defendants if defendants consented.

After I asked Mr. Lipman for consent and he denied it, I attempted to have a Rule 26(f) telephone conference with him. He said he was not willing to have such a conference without a court order as to the scope of discovery whether class action or individual liability discovery. Since just about all defendants' delivery people have joined in plaintiffs' case, the difference between class and individual liability discovery appears illusory.

Mr. Lipman stated that if we agreed to mediation that defendants would turn over such documents as the mediator determined to be necessary for our participation in the mediation. I asked Mr. Lipman whether defendants would give a mediator the power to make such a determination, and he said no- that the mediator would have to secure defendants' consent. (Prospects for mediation do not appear promising although we have been exploring it with Mr. Lipman.)

Thus, plaintiffs seek access to documents secured from defendants by the Attorney General. Plaintiffs will also be seeking compliance by the Attorney General with a subpoena as to document discovery, and plaintiffs continue to ask the Court for guidance on how effective discovery may be conducted. Since this letter is being filed on the motion return date, plaintiffs do not object to an extension of the return date on defendants' motion to stay discovery should defendants' counsel wish to further communicate with the Court.

Honorable Robert W. Sweet  
Judge  
July 23, 2008  
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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter D. Z." with a stylized flourish at the end.

PGEikenberry/rb  
cc(via fax):  
Juno Turner, Esq.  
Robert D. Lipman, Esq.  
Richard E. Signorelli, Esq.  
Michael Faillace, Esq.